IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT

JODHPUR.

O R D E R

Leela Devi. Versus State of Rajasthan & Anr.

S.B. Criminal Revision Petition No.24/2007

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Date of Order: July 25, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. D.S. Udawat, for the petitioner.
Mr. V.R. Mehta, Public Prosecutor for the State.
Mr. Jitendra Ojha, for respondent No.2.

BY THE COURT:

By the instant criminal revision petition under Section 397 read with Section 401 Cr.P.C., the petitioner, who is the daughter of the complainant, has challenged the order dated 24.8.2006 passed by the Judicial Magistrate, Sojat, district Pali (for short, "the trial Court" hereinafter), whereby the trial Court acquitted the respondent No.2 of the offence under Section 406 IPC.

I have heard learned counsel for the petitioner, learned Public Prosecutor and the counsel for the respondent No.2. Carefully perused the judgment and the order impugned.

Complainant Ghishu Lal, the father of the petitioner, initially lodged an FIR against respondent No.2 that he had committed theft of certain articles mentioned in the FIR including the gold ornament (Timaniya). The police investigated the matter and did not find the case of theft. However, a Challan was filed against the respondent No.2 for the offence under Section 406 IPC.

Before the trial Court, the prosecution produced the witnesses. On the basis of the evidence, the trial Court came to the conclusion that the prosecution has failed to prove the case beyond reasonable doubt. It also appears that complainant Ghishu Lal died during the pendency of the case and he has not been examined.

There is absolutely no evidence of entrustment of gold ornament (Timaniya) to the respondent No.2. The case, as stated by the prosecution and the complainant, is that the respondent No.2 committed the theft. There being no evidence either of entrustment or theft, in my view, the trial Court was justified in acquitting the respondent No.2. I find no error or illegality in the impugned order, which may warrant interference against an order of acquittal and that too on the revision petition

filed by the complainant.

The criminal revision petition is, therefore, dismissed. However, it is made clear that this order and the order of the trial Court will not come in the way for deciding the question of possession of the articles seized.

(H.R. PANWAR), J.

mcs